

discriminating against qualified minority groups or women.

(j) Cable entities shall substantially comply with paragraph (b)(1)(i) of this section in connection with hires for part-time positions. The remaining provisions of this section are not otherwise applicable to hires for part-time positions but are applicable only to full-time positions, defined as requiring a regular work schedule of 30 or more hours per week.

(k) The provisions of paragraphs (b)(1)(ii), (b)(2), (c), (f) and (g) of this section shall not apply to cable employment units that have fewer than six full-time employees.

[50 FR 40855, Oct. 7, 1985, as amended at 65 FR 7457, Feb. 15, 2000]

§ 76.77 Reporting requirements.

(a) *Annual employment reports.* Employment data on the annual employment report required by § 76.1802 shall reflect the figures from any one payroll period in July, August, or September of the year during which the report is filed. Unless instructed otherwise by the Commission, the same payroll period shall be used for each successive annual employment report. Employment units shall also provide EEO recruitment information covering a 12-month period, as requested and explained on the form. If a cable entity acquires a unit during the twelve months covered by the annual employment report, the recruitment activity in the report shall cover the period starting with the date the entity acquired the unit.

(b) *Certification of Compliance.* The Commission will use the recruitment information submitted on a unit's annual employment report to determine whether the unit is in compliance with the provisions of this subpart. Employment profile statistics provided about race, ethnicity, and gender of employees will not be used to determine compliance with the EEO rules. Units found to be in compliance with these rules will receive a Certificate of Compliance. Units found not to be in compliance will receive notice that they are not certified for a given year.

(c) *Investigations.* The Commission will investigate each unit at least once every five years. Employment units are

required to submit supplemental investigation information with their regular annual employment reports in the years they are investigated. If an entity acquires a unit during the period covered by the supplemental investigation, the information submitted by the unit as part of the investigation shall cover the period starting with the date the operator acquired the unit. The supplemental investigation information shall include a copy of the unit's EEO public file report for the preceding year.

(d) *Job category definitions.* The following job category definitions are to be used when classifying employees for purposes of this section:

(1) *Corporate officers.* An employee who is responsible for setting broad policies for the overall operation of the company and who holds a corporate office as designated by the company's governing regulations (e.g., Articles of Incorporation, Articles of Partnership, By-Laws). Examples of positions which may fall within this category include, Chairman of the Board, President and Vice President.

NOTE: Employees who perform responsibilities falling within the "Corporate Officers" and another of the job categories in paragraphs (d) (2) through (6), should normally be classified in only one of the categories in paragraphs (d) (2) through (6). Specific job titles for categories in paragraphs (d) (1) through (6) are merely illustrative. The proper categorization of any employee depends on the kind and level of the employee's responsibilities and not merely the employee's title. Employees who are appropriately classified into one of the categories in paragraphs (d) (1) through (6) also should fall within the category of paragraph (d)(7).

(2) *General manager.* An employee who exercises overall responsibility for a cable unit or system. Related title may include "systems manager."

(3) *Chief technician.* An employee who has overall responsibility for the system's technical operations. The incumbent ordinarily oversees technical budgets and expenditures, inventory control and fleet management. Individual ordinarily supervises technical personnel in the installation, service, maintenance and construction departments and/or studio. Category includes

related titles such as "Technical Operations Manager," "Technical Manager," "Plant Manager," or "Chief Engineer."

(4) *Comptroller*. An employee who manages the activities of the accounting department in the maintenance of the accounting book and other such records.

(5) *General sales manager*. A senior sales or marketing employee who oversees the marketing functions of the system which may include telemarketing in addition to direct sales.

(6) *Production manager*. A senior employee responsible for advertising and/or production of local community programming.

NOTE: An employee whose responsibilities fall within more than one of the job categories in paragraphs (d) (2) through (6), (i.e., General Manager/Comptroller), should be listed in the one job category which represents the most frequently performed task by that person.

(7) *Managers*. Occupations requiring administrative personnel who set broad policies, exercise overall responsibility for execution of these policies, and direct individual departments or special phases or segments of a firm's operation or subdepartments of a major department. Incumbents within this category ordinarily exercise authority to hire and terminate employees. This category would include systems managers and assistant managers, program directors and assistant directors, office managers, budget officers, promotions managers, public affairs directors, chief engineers and those holding equivalent positions. Employees appropriately falling within categories in paragraphs (d) (1) through (6) also should fall within this category.

(8) *Professionals*. Occupations requiring either college graduation or experience of such kind and amount as to provide a comparable background. Includes: accountants and auditors, editors, engineers, lawyers and labor relations specialists. This category would include persons engaged in the writing, preparation and reproduction of programming, writers or editors, producers and directors of programs, floor directors, announcers, singers, actors, music librarians and those in similar positions.

(9) *Technicians*. Occupations requiring a combination of basic scientific knowledge and manual skill which can be obtained through about 2 years of post high school education, such as is offered in many technical institutes and junior colleges, or through equivalent on-the-job training. Includes: computer programmers and operators, engineering aides, junior engineers and electronic technicians. This category also would include strand mappers, audio and video engineers, camera technicians (live or film), film processors, light technicians, drafters and design personnel, electronic converter repair technicians (technicians who perform more than clear and recycle functions) and advertising sales production personnel.

(10) *Sales*. Occupations engaging wholly or primarily in direct selling. This category would include advertising agents, cable service sales personnel (sales representatives), and individuals engaged in direct customer contact for the purposes of product and service promotion. This category includes employees who ordinarily are paid by commissions.

(11) *Office and clerical*. Includes all clerical-type work regardless of level of difficulty, where the activities are predominantly nonmanual though some manual work not directly involved with altering or transporting the products is included. Includes: Bookkeepers, cashiers, collectors of bills and accounts, messengers and clerks, office machine operators, stenographers, typists and secretaries, telephone operators, kindred workers and customer service representatives.

(12) *Craft workers (skilled)*. Manual workers of relatively high skill level having a thorough and comprehensive knowledge of the processes involved in their work. Exercise considerable independent judgment and usually receive an extensive period of training. Includes: Hourly paid supervisors who are not members of management, mechanics, and repair workers, electricians, motion picture projectionists, and splicers.

(13) *Operatives (semi-skilled)*. Workers who operate machine or processing equipment or perform other factory-type duties of intermediate skill level

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which can be mastered in a few weeks and require only limited training. Includes: Apprentices, operatives, truck and tractor drivers, welders, installers, line workers, and trenching machine workers.

NOTE: Apprentices—Persons employed in a program including work training and related instruction to learn a trade or craft which is traditionally considered an apprenticeship regardless of whether the program is registered with a Federal or State agency.

(14) *Laborers (unskilled)*. Workers in manual occupations which generally require no special training. Perform elementary duties that may be learned in a few days and require the application of little or no independent judgment. Includes: gardeners and groundskeepers, laborers performing lifting or digging, stage hands and kindred workers.

(15) *Service workers*. Workers in both protective and nonprotective service occupations. Includes: Char workers and cleaners, elevator operators, guards and watch workers, janitors, and kindred workers.

NOTE: A person who does a job falling within more than one of the job categories listed in paragraphs (d) (7) through (15) is to be listed in the job category which represents the most frequently performed task by that person; a person is to be listed only once. Specific job titles listed in the categories above are merely illustrative. The proper categorization of any employee depends on the kind and level of the employee's responsibilities.

(e) *Records and inquiries*. Employment units subject to this subpart shall maintain records of their recruitment activity in accordance with § 76.75 to demonstrate whether they are in compliance with the EEO rules. Units shall ensure that they maintain records sufficient to verify the accuracy of information provided in their annual employment reports, supplemental investigation responses, and in the EEO program information required by § 76.1702 to be kept in a unit's public file. To determine compliance with the EEO rules, the Commission may conduct inquiries of employment units at random or if the Commission has evidence of a possible violation of the EEO rules. Upon request, employment units shall

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make records available to the Commission for its review.

(f) *Public complaints*. The public may file complaints based on annual employment reports, supplemental investigation information, or the contents of a unit's public file.

(g) *Sanctions and remedies*. The Commission may issue appropriate sanctions and remedies for any violation of the EEO rules.

[50 FR 40855, Oct. 7, 1985, as amended at 58 FR 42250, Aug. 9, 1993; 63 FR 16907, Apr. 7, 1998; 65 FR 7459, Feb. 15, 2000]

§ 76.79 Records available for public inspection.

A copy of every annual employment report, and any other employment report filed with the Commission, and complaint report that has been filed with the Commission, and copies of all exhibits, letters, and other documents filed as part thereof, all amendments thereto, all correspondence between the cable entity and the Commission pertaining to the reports after they have been filed in all documents incorporated therein by reference, unless specifically exempted from the requirement, are open for public inspection at the offices of the Commission in Washington, DC.

NOTE TO § 76.59: Cable operators must also comply with the public file requirements § 76.1702.

[65 FR 7459, Feb. 15, 2000]

Subpart F—Nonduplication Protection and Syndicated Exclusivity

SOURCE: 53 FR 27171, July 19, 1988, unless otherwise noted.

§ 76.92 Network non-duplication; extent of protection.

(a) Upon receiving notification pursuant to § 76.94, a cable community unit located in whole or in part within the geographic zone for a network program, the network non-duplication rights to which are held by a commercial television station licensed by the